

Express Mail Label No.: EV463104025US

Date of Deposit: October 3, 2005

Attorney Docket No.: 21578-010 CON

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICANTS : Wangh

SERIAL NUMBER : 10/798,061

EXAMINER : Not Yet Assigned

FILING DATE : March 10, 2004

ART UNIT : 1632

FOR : PRENATAL SCREENING

**MAIL STOP PETITIONS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.78(a)(3) TO ACCEPT  
UNINTENTIONALLY-DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. 120 FOR  
THE BENEFIT OF PRIOR-FILED NONPROVISIONAL APPLICATIONS**

Pursuant to 37 C.F.R. § 1.78(a)(3) and further to the Petition Pursuant to 37 C.F.R. § 1.78(a)(3) filed on February 10, 2005 ("February 10, 2005 Petition"), this Renewed Petition is submitted to request perfection of the benefit claim in the above-referenced application. As noted in the February 10, 2005 Petition, although a benefit claim was included in an executed oath and declaration submitted on March 10, 2004 and indicated on an updated filing receipt mailed on January 18, 2005 (courtesy copies enclosed), it was noted that the instant application did not contain a complete specific reference to each of the prior-filed nonprovisional applications in the first sentence of the specification, as required under 37 C.F.R. § 1.78(a)(3).

Thus, a Preliminary Amendment was filed concurrently with the February 10, 2005 Petition in order to amend the specification to contain a reference to each of the prior-filed nonprovisional applications from which the instant application claims benefit. However, as noted in the Decision on Petition Under 37 C.F.R. 1.78(a)(3) mailed on June 9, 2005, "the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications". (Decision at page 1).

Accordingly, in conjunction with this Renewed Petition, Applicant additionally submits herewith a Substitute Preliminary Amendment, which only includes incorporation by reference language with respect to USSN 08/013,039 (now United States Patent No. 5,480,772). Applicant

Wangh  
10/798,061

notes that this application was incorporated by reference in the as-filed specification. As such, Applicant submits that including this incorporation by reference language does not constitute new matter.

The undersigned asserts that the entire delay between the date the benefit claim was due, according to 37 C.F.R. § 1.78(a)(2)(ii), and the date the benefit claim was perfected was unintentional, as required by 37 C.F.R. § 1.78(a)(3)(i). Once aware of the delay, the undersigned worked diligently to have the benefit claim corrected.

Applicant previously submitted Check No. 20049 in the amount of \$1,370.00 for payment of the surcharge specified in 37 C.F.R. § 1.17(t) (courtesy copy enclosed). No additional fees are believed due. However, the Commissioner is authorized to charge any additional fees that may be due, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Ref. No. 21578-010 CON.

Respectfully submitted,



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Ingrid A. Beattie, Reg. No. 42,306  
Christina K. Stock, Reg. No. 45,899  
Attorney for Applicants  
Tel: (617) 542-6000  
Fax: (617) 542-2241  
**Customer No. 30623**

Dated: October 3, 2005

TRA 2048577v1



**DECLARATION AND POWER OF ATTORNEY**  
(Continuation or CIP Application)

**COPY**

I, a below named inventor, I hereby declare that:  
My residence, post office address and citizenship are as stated below next to my name,  
I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint  
inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the

invention entitled PRENATAL SCREENING

the specification of which

is attached hereto.

X was filed on February 1, 1994 as Application

Serial No. 08/190.771 and was amended

on \_\_\_\_\_

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56 (a).

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:  
Prior Foreign Application(s):

(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No
(Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

<u>08/013.039</u> (Application Serial No.)	<u>February 3, 1993</u> (Filing Date)	<u>Pending</u> (Status) (patented, pending, abandoned)
_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status) (patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Richard J. Warburg, Esq.  
Registration No. 32,327

Kindly recognize as associate attorney: Roland N. Smoot, Reg. No. 18,718; Conrad R. Solum, Jr., Reg. No. 20,467; James W. Geriak, Reg. No. 20,233; Robert M. Taylor, Jr., Reg. No. 19,848; Samuel B. Stone, Reg. No. 19,297; Douglas E. Olson, Reg. No. 22,798; Robert E. Lyon, Reg. No. 24,171; Robert C. Weiss, Reg. No. 24,939; William E. Thomson, Jr., Reg. No. 20,719; Richard E. Lyon, Jr., Reg. No. 26,300; John D. McConaghy, Reg. No. 26,773; William C. Sieffin, Reg. No. 26,811; Coe A. Bloomberg, Reg. No. 26,605; J. Donald McCarthy, Reg. No. 25,119; John M. Bonasut, Reg. No. 27,483; James H. Shalek, Reg. No. 29,749; Allan W. Jansen, Reg. No. 29,395; Robert W. Dickerson, Reg. No. 29,914; Roy L. Anderson, Reg. No. 30,240; David B. Murphy, Reg. No. 31,125; James C. Brooks, Reg. No. 29,898; Jeffrey M. Olson, Reg. No. 30,790; Steven D. Henninger, Reg. No. 30,755; Jerrold B. Reilly, Reg. No. 32,293; and Suzanne L. Biggs, Reg. No. 30,138 of LYON & LYON, 611 West Sixth Street, Los Angeles, California 90017, Telephone (619) 552-8400.

Address all telephone calls to Richard J. Warburg, Esq. at telephone no. (619) 552-8400.

Address all correspondence to Richard J. Warburg, Esq., Lyon & Lyon, 611 West  
Sixth St., Suite 3400, Los Angeles, CA 90017.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Full name of sole or first inventor Lawrence J. Wangh

Inventor's signature

Date: Feb 28, 1954

Residence 20 Duffield Road, Auburndale, Massachusetts 02160

Citizenship USA

Post Office Address 20 Duffield Road, Auburndale, Massachusetts 02160



OCT 03 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/798,061	03/10/2004	1632	428	21578-010CON	2	11	4

Ingrid A. Beattie, Ph.D., J.D.  
Mintz Levin Cohn Ferris Glovsky & Popeo, P.C.  
One Financial Center  
Boston, MA 02111

**CONFIRMATION NO. 5694**

**CORRECTED FILING RECEIPT**



\*OC000000014972126\*

Date Mailed: 01/18/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Lawrence J. Wangh, Auburndale, MA;

<input type="checkbox"/> Docket Entry	Done By <u>AD</u>
<input type="checkbox"/> Docket Cross Off	
<input type="checkbox"/> Previously Entered	
<input type="checkbox"/> No Docketing Req.	
<input type="checkbox"/> ELITE	
<input type="checkbox"/> Annuities	

**Power of Attorney:** The patent practitioners associated with Customer Number **30623**.

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/226,766 01/06/1999 PAT 6,753,457  
and is a CIP of 08/013,039 02/03/1993 PAT 5,480,772

**Foreign Applications**

If Required, Foreign Filing License Granted: 05/27/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/798,061**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**\*\* SMALL ENTITY \*\***

**RECEIVED**

JAN 21 2005

**MINTZ LEVIN, BOSTON  
PATENT DOCKET DEPT**

**Title**

Prenatal screening

**Preliminary Class**

800

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Express Mail Label No. EV463104025US

Date of Deposit: October 3, 2005

Express Mail Label No. EV475 7495US

Date of Deposit: February 10, 2005

20049

MINTZ LEVIN COHN FERRIS GLOVSKY

&amp; POPEO PC

ONE FINANCIAL CENTER  
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Serial No. 10/798,061 File No. 21578-010 CON By: IAB/CKSTitle: Prenatal ScreeningApplication of Wangh Date: 3/10/04

The U.S. PTO Mail Room acknowledges receipt of the following on the date stamped hereon:

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|---|--|
| <input type="checkbox"/> Req. for CPA under 37 CFR 1.53(d)                    | <input type="checkbox"/> Provisional Application Cover Sheet                       |
| <input type="checkbox"/> Change of Attorney's Address                         | <input type="checkbox"/> Inf. Disc. Statement, PTO Form 1449                       |
| <input type="checkbox"/> New Power of Attorney                                | <input type="checkbox"/> References Cited  |
| <input type="checkbox"/> Patent Application                                   | <input type="checkbox"/> Copy of Notice to File Missing Parts                      |
| <input type="checkbox"/> Non-provisional <input type="checkbox"/> Provisional | <input checked="" type="checkbox"/> Amendment/Response <b>Prelim. (4pgs)</b>       |
| Incl. _____ pages, ( _____ pgs) Specification,                                | <input type="checkbox"/> Petition for Ext. of Time (x2)                            |
| ( _____ pgs) Abstract, ( _____ pgs) Claims ( _____ # claims)                  | <input type="checkbox"/> Issue Fee Transmittal                                     |
| <input type="checkbox"/> Design Patent Application                            | <input type="checkbox"/> Letter to Official Draftsperson                           |
| <input type="checkbox"/> Declaration(s)                                       | <input type="checkbox"/> Notice of Appeal  |
| <input type="checkbox"/> Drawings _____ sheet(s) (FIGS. _____ - _____)        | <input type="checkbox"/> Brief (x3)  |
| <input type="checkbox"/> Formal <input type="checkbox"/> Informal             | <input checked="" type="checkbox"/> Check for \$ <b>1,370</b> Check # <b>20049</b> |
| <input type="checkbox"/> Verified Statement claiming small entity status      | <input checked="" type="checkbox"/> Transmittal Letter (x2) <b>1 pg</b>            |
| <input type="checkbox"/> Assignment and Cover Sheet                           | <input type="checkbox"/> Cert. of Mailing under 37 CFR 1.8(a)                      |
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☒ Other Petition Pursuant to 37 CFR Sec. 1.78(a)(3) with  
attachments (6 pgs)

DATE MAILED February 10, 2005